

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BRJONY PATTERSON,

Plaintiff,

v.

THE UNIVERSITY OF CHICAGO,

Defendant.

CASE NO. 02 C 2549

JUDGE NORGLE

MAGISTRATE JUDGE ASHMAN

NOTICE OF MOTION

To: Edward A. Voci, Esq.
111 South Boulevard
Oak Park, Illinois 60302

APR 01 2003

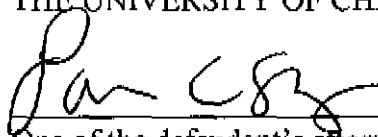
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CLERK, U.S. DISTRICT COURT

^{9:30}
PLEASE TAKE NOTICE that at ~~9:00~~ a.m. on the 4th day of April, 2003, I shall appear before the Honorable Judge Norgle, or anyone sitting in his place and stead, in the Northern District of Illinois, Eastern Division, and present **Defendant's Motion to Dismiss for Want of Prosecution or, in the Alternative, to Compel Plaintiff's Initial Disclosures and Discovery Responses.**

Respectfully submitted,

THE UNIVERSITY OF CHICAGO

BY:


One of the defendant's attorneys

Daniel A. Kaufman -- I.D. #06194714
Laura C. Shroyer -- I.D. # 6231289
Michael Best & Friedrich LLC
401 North Michigan Avenue, Suite 1900
Chicago, Illinois 60611
(312) 222-0800

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
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APR 7 2003

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Plaintiff,

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THE UNIVERSITY OF CHICAGO,

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CASE NO. 02 C 2549

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MAGISTRATE JUDGE ASHMAN

FILED

**DEFENDANT'S MOTION TO DISMISS FOR WANT OF PROSECUTION
OR, IN THE ALTERNATIVE, TO COMPEL PLAINTIFF'S
INITIAL DISCLOSURES AND DISCOVERY RESPONSES**

Defendant, the University of Chicago ("the University"), by the undersigned attorneys,

respectfully moves this Court to dismiss this case for want of prosecution, pursuant to Federal Rule of Civil Procedure 41(b) and Local Rule 41.1, or, in the alternative, to compel plaintiff's Initial Disclosures and complete responses to the University's First Set of Interrogatories and First Set of Document Requests pursuant to Federal Rule of Civil Procedure 37. In support of this motion, the University states as follows:

1. On April 9, 2002, plaintiff, a former graduate student at the University of Chicago, filed a complaint alleging that she was intentionally discriminated against in violation of §504 of the Rehabilitation Act, 29 U.S.C. § 794.
2. On July 24, 2002, this Court dismissed plaintiff's complaint with prejudice pursuant to Local Rule 41.1 for plaintiff's failure to serve the University within the allotted 120 days and for plaintiff's failure to appear for a status hearing.

3. On August 6, 2002, plaintiff filed a Motion to Vacate the Dismissal with Prejudice, which was granted.

4. Plaintiff ultimately served the University in August 2002, and the University filed a Partial Motion to Dismiss as well as an Answer on behalf of the University on September 19, 2002.

5. On October 3, 2002, this Court set the following briefing schedule: plaintiff's response to the University's Partial Motion to Dismiss was due on or before October 25, 2002 and the University's reply brief was due on November 8, 2002.

6. Plaintiff failed to file a response to the University's Partial Motion to Dismiss on October 25, 2002, or at any time thereafter.

7. On December 4, 2002, this Court granted the University's Motion to Dismiss and set the following schedule: discovery to close on June 30, 2003, final pretrial order due July 31, 2003, and jury trial to commence on August 26, 2003.

8. On January 14, 2003, the University served plaintiff with its Initial Disclosures, pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, and requested that plaintiff provide the University with her Initial Disclosures by January 17, 2003. (Attached as Exhibit A).

9. On January 29, 2003, the University sent plaintiff's counsel a letter in accordance with Local Rule 37.2, requesting that he provide plaintiff's Initial Disclosures on or before January 31, 2003. (Attached as Exhibit B).

10. On January 31, 2003, plaintiff's counsel sent a letter indicating that he would complete plaintiff's Initial Disclosures over the weekend and fax them to the University's counsel as soon as they were complete. (Attached as Exhibit C).

11. On February 4, 2003, the University served plaintiff with its First Set of Interrogatories and First Request for Production of Documents. (Attached as Exhibits D and E).

12. On February 7, 2003, the University sent plaintiff's counsel a letter in accordance with Local Rule 37.2, requesting that he provide plaintiff's Initial Disclosures by the close of business that day. (Attached as Exhibit F). When plaintiff's Initial Disclosures still were not forthcoming, the University left voice mail messages for plaintiff's counsel.

13. On March 10, 2003, plaintiff's responses to the University's First Set of Interrogatories and First Request for Production of Documents were due. Plaintiff did not tender responses.

14. On March 14, 2003, when plaintiff still had not provided her Initial Disclosures or responses to the University's discovery requests, the University sent a letter in accordance with Local Rule 37.2, requesting that plaintiff's counsel provide the University with a date certain when he would provide plaintiff's Initial Disclosures and discovery responses. (Attached as Exhibit G). Also on March 14, 2003, the University sent a Notice of Deposition for the plaintiff, with the deposition to commence at 9:00 a.m. on April 1, 2003. (Attached as Exhibit H).

15. On March 14, 2003, plaintiff's counsel telephoned the University's counsel's assistant and indicated that he would provide responses to plaintiff's Initial Disclosures and responses to the University's discovery requests on or before March 21, 2003.

16. On March 25, 2003, the University canceled plaintiff's deposition because of her failure to provide discovery responses and to comply with Rule 26(a)(1). The University sent a letter in accordance with Local Rule 37.2, requesting that plaintiff's counsel provide the

University with a date certain when he would provide plaintiff's Initial Disclosures and discovery responses and possible dates to reschedule plaintiff's deposition. (Attached as Exhibit I).

17. On March 31, 2003, having received no response from plaintiff's counsel, the University sent another Notice of Deposition to depose plaintiff on May 1, 2003. In response to the Re-Notice of Deposition, plaintiff's counsel left defense counsel a voice mail message indicating that he was working on the discovery responses, but he did not provide a date certain when they would be tendered. He indicated that he would notify defense counsel later this week how the responses were coming.

18. Despite the University's repeated requests, plaintiff still has not produced her Initial Disclosures or responses to the University's discovery requests and did not provide possible dates to re-schedule plaintiff's deposition.

19. Since filing this lawsuit one year ago, plaintiff failed to engage in discovery or to take any apparent interest in this litigation. She failed to file a response to the University's Partial Motion to Dismiss, she failed to provide Initial Disclosures, she failed to respond to the University's discovery requests, and she thus far has failed to issue any written discovery requests or deposition notices of her own.

20. The University has done more than its part to proceed in this case; plaintiff has been inactive in prosecuting this case since she served the Summons and Complaint in August 2002. Thus, the case has been inactive for well over six months as required by LR 41.1.

21. For these reasons, the University prays that this matter be dismissed for want of prosecution and for any further relief this Court deems appropriate.

22. In the alternative, the University seeks an Order granting its Motion to Compel to secure plaintiff's Initial Disclosures and written discovery responses.

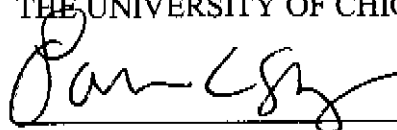
23. Counsel for the University have fully complied with their obligation pursuant to Local Rule 37.2, to engage in personal consultation with opposing counsel and have made good faith attempts to resolve these discovery disputes prior to the filing of this motion. However, efforts at resolving this dispute were unsuccessful.

WHEREFORE, the University prays that this Court enter an order dismissing this case for want of prosecution or, in the alternative, compelling plaintiff to provide her Initial Disclosures and complete responses to the University's discovery requests within seven days, and awarding the University attorneys' fees for the expenses incurred in bringing this motion.

Respectfully submitted,

THE UNIVERSITY OF CHICAGO

BY:



One of the defendant's attorneys

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See Case
File For
Exhibits